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August 24, 2006

Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Suite 700
Washington, DC 20423

Re: Review of Rail Access and Competition Issues—Renewed Petition of the Western
Coal Traffic League, STB Ex Parte No. 575

Dear Secretary Williams:

By letter dated August 15, 2006, Union Pacific Railroad Company ("UP") commented on the submission made by Arkansas Electric Cooperative Corporation ("AECC") on August 7, 2006. In that submission, AECC provided the analysis of the impact of the paper barrier affecting AECC's Independence power plant discussed at the July 27, 2006 hearing conducted by the Board. Unfortunately, UP's comments are self-contradictory, and apparently seek to obfuscate, rather than clarify, the issues before the Board in this proceeding.

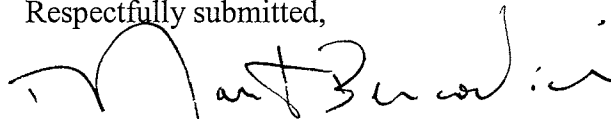
UP claims that AECC should know there is no paper barrier impact (citing contractual information filed under seal by UP in STB Ex Parte No.661), but then turns around and defends the existence of a premium at Independence because the plant was built at an exclusively-served location. Without trying to follow this shell game, the Board can readily see that neither of UP's arguments is relevant. In this proceeding, the Board is explicitly considering the possibility of limiting/removing paper barriers. The AECC estimate measured the effect of such an action based on the change it would produce in the competitive environment for the subject plant. AECC's estimate is consistent with the market forces that (would) govern the creation of rail rates for this plant – UP's attempt to hide behind the current contractual treatment of this move and the White Bluff move is not.¹

¹ It seems particularly bizarre for UP to cite evidence from STB Ex Parte 661, since the evidence from that proceeding systematically undermines UP's current attempt to rely on contract provisions to assess the rate differential between the Independence and White Bluff plants. In its comments dated June 5, 2006 in Ex Parte 661, UP described how movements to White Bluff and Independence are not intrinsically related, since UP may not even serve the White Bluff movement after the current contract expires. Moreover, responsive comments submitted by AECC on June 21, 2006 in Ex Parte 661 documented in detail how the terms of the current contract do not support the rate interpretation now offered by UP (see section 1 of Table 2 in AECC's June 21 filing).

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Similarly, UP's attempt to turn back the clock to the rail environment of the 1970's and early 1980's overlooks the fact that it was UP, acting in its own self-interest, that created the second rail carrier at issue for this plant (MNA). The Board is now examining the paper barrier component of that and other transactions, and is under no obligation to adopt UP's fantasy that MNA was never created as a basis for preserving the UP market power that now resides in the paper barriers. Indeed, in this era of tightening capacity constraints, it is reasonable and proper for the Board to carefully scrutinize industry practices – like paper barriers – that may hinder the efficient utilization of the interstate rail network.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Martin W. Bercovici". The signature is fluid and cursive, with a large initial "M" and a long, sweeping underline that extends downwards.

Martin W. Bercovici
Attorney for Arkansas Electric Cooperative
Corporation

cc: Michael L. Rosenthal